

PRIVATE DETECTIVE ADVISORY COMMITTEE
Meeting Notes – No Quorum For Official Meeting
MADISON, WISCONSIN
NOVEMBER 17, 1999

PRESENT: James Gilboy, Karen Morales, Gary Peterson, John Schatzman

ABSENT: James Krause, Paul Klumb, Johnny Cash, Robert Hoeg, Edward O'Brien, David Cihlar and Steven Watson

STAFF PRESENT: Clete Hansen and Bill Black

CALL TO ORDER

The meeting was called to order at 9:40 a.m. by Clete Hansen, upon confirmation that the public notice was timely given.

APPROVAL OF AGENDA

By consensus, the agenda was adopted as published.

MINUTES (09/21/99)

No Quorum. Therefore, no motion.

ADMINISTRATIVE REPORT

Secretary Cummings' Report

Secretary Cummings was not available to report.

Bureau Director's Report

- **Roster**

Clete Hansen noted the updated roster and asked the Committee to indicate any changes or corrections.

- **Legislation**

Biennial Budget Bill

Fee changes noted.

The members in attendance discussed the costs and procedures for CIB criminal records checks. Clete Hansen reported that the CIB will very soon have such searches available on the Internet.

The members in attendance discussed the availability of and the shortcomings of searches on the Wisconsin Court of Appeals Web site, located at:

<http://www.courts.state.wi.us/WCS/casearch.html>. This discussion was a springboard into a discussion of issues relating to “personally identifiable records” and the need for private detectives to have access to such records. John Schatzman said that he would be testifying before the Privacy Task Force on November 29, 1999. He will address this problem. The members offered two suggestions for consideration of the committee at its next meeting:

1. The Department of Regulation and Licensing ought to send a letter to the task force and address this problem.
2. A rule is needed, which says that any person who for financial gain obtains and re-distributes personally identifiable information on any Wisconsin person should be required to obtain a private detective license. The members did not address exceptions that would be needed for other appropriate persons who have a need for such records.

Referring to issues relating to the Internet, Bill Black said that the real challenge is to put together a package with teeth that gives the Department and its boards jurisdiction over companies outside of Wisconsin.

The members in attendance discussed Bill Black’s legal opinion of August 26, 1999, entitled: “Computer Forensic Companies – Private Detectives.” The discussion focused on the three principal characteristics of private detective work at the bottom of page 2: unofficial person (not employee of governmental agency), obtain information in secret and the information is transmitted to a third party. Bill added another criterion during the discussion: whether the information is gathered from public sources.

Considerable discussion ensued, relating to the CAVEAT paragraph on page 4. The members in attendance suggested that when a person obtains information from a source and re-packages that information, one is acting as a private detective. The statutes and rules also clearly state that a person who holds himself or herself out as a private detective must be licensed. Bill Black suggested that “holding oneself out as a private detective” could be interpreted as applying to computer information gatherers.

Why is licensure of private detectives necessary? A few answers to that question are found in the following:

1. Because private detectives need access to certain information, especially if the laws granted private detectives some privileges not available to the general public (see California’s approach to this issue).

2. Because private detectives conduct interviews and investigations.
3. Because private detectives conduct surveillances.
4. Because private detectives testify in court.

Activities that may or may not require licensure:

Background Checks

Considerations: whether the person conducting the background check obtains a written release from the person whose background is to be checked; see the Florida opinion provided by Davey Korsmo in his letter of July 15, 1999, on page 27 of the meeting packet. The opinion says: “Companies may engage in the business of information retrieval for a fee without becoming licensed as a private investigator if they limit retrieval to documents or information available from public entities or public utilities that are intended for public use and do not elaborate further on the information or attempt any independent confirmation of the information contained in the public records.” Other considerations: the difference between searching for records and simply obtaining a specific record, whether the search is for financial gain, whether the letterhead of the person puts himself or herself out as a private investigator.

Conclusion: the principal criterion is that the person conducting the search is doing so for financial gain. He or she should be licensed.

Accountants

CPA’s who review records, looking for fraud and dishonesty under any circumstances, are acting under their CPA license and should not be required to be licensed as a private detective.

Process Servers

Clearly no license is needed and should not be needed.

Collecting on Judgments

Private detectives do not perform this service. No need to belabor the issue.

OTHER AGENDA ITEMS

All other agenda items were tabled until the next committee meeting.

SCHEDULE NEXT MEETING

The next meeting is scheduled for January 19, 2000 from 9:30 a.m. until noon.

ADJOURNMENT

The meeting adjourned at noon.